



Rule Review Checklist Addendum

This form is to be used only if the rule was previously reviewed, and has not been amended subsequent to that review.

Document(s) Reviewed: **WAC 458-20-257 Warranties and maintenance agreements.**

Date last reviewed: **December 29, 1999**

Reviewer: **Gayle Carlson**

Date current review completed: **March 9, 2004**

Briefly explain the subject matter of the document(s):

This rule explains the application of business and occupation tax, retail sales tax, and use tax in transactions involving warranties and maintenance agreements. It includes how tangible personal property repairs and/or replacements made under warranties are taxable. The rule also provides definitions and examples.

Type an "X" in the column that most correctly answers the question, and provide clear, concise, and complete explanations where needed.

1. Public requests for review:

YES	NO	
	X	Is this document being reviewed at this time because of a public (e.g., taxpayer or business association) request?

If "yes," provide the name of the taxpayer/business association and a brief explanation of the issues raised in the request.

2. Related statutes, interpretive and/or policy statements, court decisions, BTA decisions, and WTDs: (Excise Tax Advisories (ETAs), Property Tax Advisories (PTAs), and Interim Audit Guidelines (IAGs) are considered interpretive and/or policy statements.)

YES	NO	
	X	Are there any statutory changes subsequent to the previous review of this rule that should be incorporated?
	X	Are there any interpretive or policy statements not identified in the previous review of this rule that should be incorporated? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any interpretive or policy statements that should be repealed because the information is currently included in this or another rule, or the information is incorrect or not needed? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed



		form.)
	X	Are there any Board of Tax Appeals (BTA) decisions, court decisions, or Attorney General Opinions (AGOs) subsequent to the previous review of this rule that provide information that should be incorporated into this rule?
	X	Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) subsequent to the previous review of this rule that provide information that should be incorporated into the rule?
	X	Are there any changes to the recommendations in the previous review of this rule with respect to any of the types of documents noted above? (An Ancillary Document Review Supplement should be completed if any changes are recommended with respect to an interpretive or policy statement.)

If the answer is “yes” to any of the questions above, identify the pertinent document(s) and provide a brief summary of the information that should be incorporated into the document.

3. Additional information: Identify any additional issues (other than those noted above or in the previous review) that should be addressed or incorporated into the rule. Note here if you believe the rule can be rewritten and reorganized in a more clear and concise manner.

- **This rule is written in a clear and concise manner.**
- **If revised in the future, the rule should mention the requirement of a resale certificate in the retail sales tax section (3)(a)(iii). It should also be mentioned in the use tax section (4)(a)(ii).**

4. Listing of documents reviewed: The reviewer need identify only those documents that were not listed in the previous review of the rule(s). Use “bullets” with any lists, and include documents discussed above. Citations to statutes, interpretive or policy statements, and similar documents should include titles. Citations to Attorney General Opinions (AGOs) and court, Board of Tax Appeals (BTA), and Appeals Division (WTD) decisions should be followed by a brief description (i.e., a phrase or sentence) of the pertinent issue(s).

Statute(s) Implemented:

- **RCW 82.04.050 - Sale at retail, retail sale.**
- **RCW 82.04.220 - Business and occupation tax imposed.**
- **RCW 82.04.250 - Tax on retailers.**
- **RCW 82.04.290 - Tax on international investment management services, or other business or service activities.**
- **RCW 82.08.020 - Tax imposed - Retail sales.**
- **RCW 82.12.020 - Use tax imposed.**

Interpretive and/or policy statements (e.g., ETAs, PTAs, and IAGs):

- **None.**

Court Decisions:

- ***Discount Tire Company of Wash. v. Dept. of Revenue*, Washington State Court of Appeals Division II, Docket # 28708-1-II. Addressing the application of provisions**



of WAC 458-20-108 (returned goods, allowances, cash discounts) to sellers of "extended warranty contracts."

Board of Tax Appeals Decisions (BTAs):

- **None.**

Appeals Division Decisions (WTDs):

- **Det. 99-056, 19 WTD 54 (2000).** Discusses a situation where extended warranty repairs are taxable under retailing business & occupation tax and retail sales tax.
- **Det. 99-345, 19 WTD 618 (2000).** Discusses taxability pertaining to warranty - maintenance - mixed agreements - segregation of charges.
- **Det. 00-004, 20 WTD 348 (2001).** Use tax is due from dealer for replacement tires when defective tires are returned pursuant to extended warranties, sold by the dealer.

Attorney General Opinions (AGOs):

- **None.**

Other Documents (e.g., special notices or Tax Topic articles, statutes or regulations administered by other agencies or government entities, statutes, rules, or other documents that were reviewed but were not specifically relevant to the subject matter of the document being reviewed):

- **None.**

5. Review Recommendation:

- ☐ **Amend**
- ☐ **Repeal/Cancel** (Appropriate when action is not conditioned upon another rule-making action or issuance of an interpretive or policy statement.)
- ☒ **Leave as is** (Appropriate even if the recommendation is to incorporate the current information into another rule.)
- ☐ **Begin the rule-making process for possible revision.** (Applies only when the Department has received a petition to revise a rule.)

Explanation of recommendation: Provide a brief summary of your recommendation, whether the same as or different from the original review of the document(s). If this recommendation differs from that of the previous review, explain the basis for this difference.

- **At this time there appears to be no need to revise this rule. If revised in the future, the required use of resale certificates in wholesale situations should be mentioned in more than just the one instance in ((3)(c)(i)).**



6. Manager action: Date: February 2, 2005

AL Reviewed and accepted recommendation

Amendment priority (to be completed by manager):

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